

AMENDED IN ASSEMBLY APRIL 25, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2564

Introduced by Assembly Member Ma

February 24, 2012

An act to amend Sections 21080.21, 21100.2, and 21168.6 of, and to add Section 21063.5 to, the Public Resources Code, relating to environmental quality, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ma. Environmental quality: pipelines: project applicants.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline, as defined, or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.

This bill would revise that exemption for pipeline projects to instead exempt a project of less than 8 miles in length, but would restrict the exemption to activities that do not take place along more than one mile at any one time. The bill would also revise the definition of the term

pipeline for purposes of this exemption to delete the exclusion for surface facilities related to the operation of the underground facility.

The bill would also require a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement project, as defined, to elect to pay additional fees to be used by the public agency in determining whether to approve that project by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) CEQA requires, for purposes of actions against the Public Utilities Commission, the writ of mandate to lie only from the Supreme Court to the commission.

This bill would require, in an action or proceeding against a public agency involving a natural gas pipeline safety enhancement project, the writ of mandate to lie only from the Supreme Court to the public agency.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is a matter of statewide concern to achieve the timely
- 4 completion of natural gas pipeline safety enhancements, including
- 5 programs for maintenance and operation enhancements, and to
- 6 contribute to the public's confidence in the safety of natural gas
- 7 pipelines and their ongoing maintenance and operation.
- 8 (b) It is in the public interest to accelerate the permitting process
- 9 for natural gas pipeline safety enhancements, including programs
- 10 for maintenance and operation enhancements, and for permitting
- 11 agencies to give these projects priority in processing permits.

1 (c) It is in the public interest to enable state agencies to better
2 carry out their permitting responsibilities by providing applicants
3 an option for enhancing available resources for permit processing.

4 SEC. 2. Section 21063.5 is added to the Public Resources Code,
5 to read:

6 21063.5. “Natural gas pipeline safety enhancement project”
7 means an activity undertaken by a public utility as part of a
8 program to enhance the safety of intrastate natural gas pipelines
9 in accordance with a decision, rule, or regulation adopted by the
10 Public Utilities Commission.

11 SEC. 3. Section 21080.21 of the Public Resources Code is
12 amended to read:

13 21080.21. (a) This division does not apply to any project of
14 less than eight miles in length within a public street or highway
15 or any other public right-of-way for the installation of a new
16 pipeline or the maintenance, repair, restoration, reconditioning,
17 relocation, replacement, removal, or demolition of an existing
18 pipeline, if the activity does not take place along more than one
19 mile at any one time.

20 (b) For purposes of this section, “pipeline” includes any valve,
21 flange, meter, or other piece of equipment that is directly attached
22 to the pipeline.

23 SEC. 4. Section 21100.2 of the Public Resources Code is
24 amended to read:

25 21100.2. (a) (1) For projects described in subdivision (c) of
26 Section 21065, each state agency shall establish, by resolution or
27 order, time limits that do not exceed the following:

28 (A) One year for completing and certifying environmental
29 impact reports.

30 (B) One hundred eighty days for completing and adopting
31 negative declarations.

32 (2) The time limits specified in paragraph (1) shall apply only
33 to those circumstances in which the state agency is the lead agency
34 for a project. These resolutions or orders may establish different
35 time limits for different types or classes of projects, but all limits
36 shall be measured from the date on which an application requesting
37 approval of the project is received and accepted as complete by
38 the state agency.

39 (3) No application for a project may be deemed incomplete for
40 lack of a waiver of time periods prescribed in state regulations.

1 (4) The resolutions or orders required by this section may
2 provide for a reasonable extension of the time period in the event
3 that compelling circumstances justify additional time and the
4 project applicant consents thereto.

5 (b) If a draft environmental impact report, environmental impact
6 report, or focused environmental impact report is prepared under
7 a contract to a state agency, the contract shall be executed within
8 45 days from the date on which the state agency sends a notice of
9 preparation pursuant to Section 21080.4. The state agency may
10 take longer to execute the contract if the project applicant and the
11 state agency mutually agree to an extension of the time limit
12 provided by this subdivision.

13 (c) (1) A public agency shall establish a process that would
14 allow a natural gas pipeline safety enhancement project applicant
15 to elect to pay additional fees to be used by the public agency in
16 determining whether to approve a natural gas pipeline safety
17 enhancement project by entering into a contract with one or more
18 third parties to assist the public agency to perform the analysis,
19 consistent with Article VII of the California Constitution and
20 Section 19130 of the Government Code and the charter of a
21 chartered city or county, as applicable. The public agency may,
22 but is not required to, offer a project applicant the option to pay
23 those fees and subject a project to this process.

24 (2) The amount of the fees charged by the public agency
25 pursuant to this subdivision shall be conditioned upon the natural
26 gas pipeline safety enhancement project applicant agreeing to that
27 amount and electing to proceed with the retention of a third party
28 pursuant to this subdivision.

29 (3) All fees paid by a natural gas pipeline safety enhancement
30 project applicant shall be used exclusively for analysis of that
31 applicant's application for certification.

32 SEC. 5. Section 21168.6 of the Public Resources Code is
33 amended to read:

34 21168.6. In any action or proceeding under Sections 21168 or
35 21168.5 against the Public Utilities Commission or in an action
36 or proceeding against a public agency involving a natural gas
37 pipeline safety enhancement project, the writ of mandate shall lie
38 only from the Supreme Court to that commission or public agency.

39 SEC. 6. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 a local agency or school district has the authority to levy service
2 charges, fees, or assessments sufficient to pay for the program or
3 level of service mandated by this act, within the meaning of Section
4 17556 of the Government Code.

5 *SEC. 7. This act is an urgency statute necessary for the*
6 *immediate preservation of the public peace, health, or safety within*
7 *the meaning of Article IV of the Constitution and shall go into*
8 *immediate effect. The facts constituting the necessity are:*

9 *In order to achieve the timely completion of natural gas pipeline*
10 *safety enhancements, including programs for maintenance and*
11 *operation enhancements, and to contribute to the public's*
12 *confidence in the safety of natural gas pipelines and their ongoing*
13 *maintenance and operation, thereby protecting public health and*
14 *safety, it is necessary for this act to take effect immediately.*